

NORTH CAROLINA
DURHAM COUNTY

DATE: 3/30/15

NORTH CAROLINA DEPARTMENT
OF TRANSPORTATION

REIMBURSEMENT AGREEMENT

AND

WBS: 40309

CITY OF DURHAM

THIS AGREEMENT is made and entered into on the last date executed below, by and between the North Carolina Department of Transportation, an agency of the State of North Carolina, hereinafter referred to as the "Department" and the City of Durham, a municipal corporation, hereinafter referred to as the "Municipality".

WITNESSETH:

WHEREAS, the Department leases the "Walker Warehouse Building" located at 601 West Main Street, Durham, NC, for use as the "Durham Amtrak Station"; and

WHEREAS, on May 13, 2008, the Department and the Municipality entered into Reimbursement Agreement ("Original Reimbursement Agreement") whereby the Municipality would share in the lease cost of the Station Agreement; and

WHEREAS, the Department and Municipality wish to renew and extend the term of the Original Reimbursement Agreement according to modified terms; and

WHEREAS, the Department in accordance with N.C. General Statute § 136-44.35 is authorized to assure the maintenance of safe, adequate, and efficient rail transportation services.

NOW, THEREFORE, the parties hereto, each in consideration of the promises and undertakings of the other as herein provided, do hereby covenant and agree, each with the other, as follows:

1. The Department executed a lease agreement dated May 13, 2008 with Walker CST, LLC and the National Railroad Passenger Corporation for use of the Walker Warehouse Building as the Durham Amtrak Station ("Station Agreement").
2. The Department will be required to pay an annual fee as required by the Station Agreement. The Department's obligations are, pursuant to the requirements of N.C.G.S. § 143C-6-8, dependent upon and subject to the allocation of funds to the Department for the purposes set for in this Reimbursement Agreement.
3. Pursuant to the Original Reimbursement Agreement the Municipality has reimbursed the Department 25% of the annual fee required by the Station Agreement through June 30, 2015.
4. The Municipality shall reimburse the Department for 25% of the Department's annual fee as required by the Station Agreement. The fee specifically excludes utilities, property taxes, insurance, and common area maintenance, all of which are not subject to this agreement. The Department shall be responsible for these other expenses.
5. The Department shall invoice the Municipality annually for its 25% share of the Station Agreement fee ("Annual Municipal Share"). The annual Station Agreement fee will be paid by the Department in lump sum at the commencement of each annual occupancy period, which begins on July 1, 2015. The Department will invoice the Municipality for its Annual Municipal Share immediately after payment of the annual Station Agreement fee, but not before July 1 of each payment year.
6. Contemporaneously with the execution of this Agreement, the Department has agreed to lease from the Municipality the parking lot adjacent to the Durham Amtrak Station ("Parking Lot Lease"). The Department shall deduct from the Annual Municipal Share invoice an amount equal to the annual rent owed by the Department to the Municipality pursuant to the Parking Lot Lease, which amount equals \$26,400.00 per year from July 1, 2015 to June 30, 2017, and \$31,680.00 per year from July 1, 2017 to June 30, 2022. The Department shall be responsible for the cost of any improvements to the parking lot provided by the Municipality. This Agreement does not authorize the Municipality to make improvements or seek reimbursement from the Department for improvements.
7. This agreement shall be effective for seven years until June 30, 2022 and may be extended upon mutual consent of both parties.
8. Upon receipt of each annual invoice from the Department, the Municipality shall reimburse the Department in a lump sum payment and within sixty (60) days of invoicing. If the Municipality does not pay said invoice within sixty (60) days of the date of the invoice, the Department shall charge a late payment penalty and interest on any unpaid balance due in accordance with G.S. 147-86.23.

9. In the event the Municipality fails for any reason to pay the Department in accordance with the provisions for payment hereinabove provided, North Carolina General Statute 136-41.3 authorizes the Department to withhold so much of the Municipality's share of funds allocated to said Municipality by North Carolina General Statute, Section 136-41.1, until such time as the Department has received payment in full.
10. To the extent allowed by Law, each party shall be responsible for its respective actions under the terms of this agreement and shall save harmless the other party from any claims arising as a result of such actions under the terms of this Agreement.
11. The Department estimates that the total cost to the Municipality over the seven-year term of this agreement is \$194,527.77 after deducting the fee for the Parking Lot Lease.

IN WITNESS WHEREOF, this Reimbursement Agreement has been executed the last day and year set out below, on the part of the Department and the Municipality by authority duly given.

N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this Agreement, you attest, for your entire organization and its employees or agents, that you are not aware that any gift in violation of N.C.G.S. § 133-32 and Executive Order 24 has been offered, accepted, or promised by any employees of your organization.

WITNESS

CITY OF DURHAM

BY: _____

BY: _____

NAME: _____

NAME: _____

TITLE: _____

TITLE: _____

DATE: _____

DATE: _____

(MUNICIPAL SEAL)

Approved by City Council of the City of
Durham as attested to by the signature of

Clerk of the City Council

Date

This instrument has been pre-audited in the
manner required by the Local Government
Budget and Fiscal Control Act.

Finance Officer

FEDERAL IDENTIFICATION NUMBER

City of Durham

MAILING ADDRESS

City of Durham

101 City Hall Plaza

Durham, North Carolina 27701-3328

ATTN: _____

IN WITNESS WHEREOF, this Reimbursement Agreement has been executed the last day and year set out below, on the part of the Department and the Municipality by authority duly given.

ATTEST

NORTH CAROLINA DEPARTMENT OF
TRANSPORTATION

BY: _____

BY: _____

NAME: Sarah Mitchell

NAME: Jeff Mann

TITLE: Secretary to Board of
Transportation

TITLE: Deputy Secretary for Transit

DATE: _____

DATE: _____

MAILING ADDRESS

North Carolina Department of
Transportation

Rail Division, Operations and Facilities
Branch

1553 Mail Service Center

Raleigh, North Carolina 27699-1553

ATTN: Craig Newton, PE – Project
Engineer

APPROVED BY BOARD OF TRANSPORTATION
ITEM O:

(Date)